



MARYLAND HEALTH BENEFIT EXCHANGE

Appeals Overview

June 12, 2012

Legal Requirements

- ACA and federal regulations:
 - Exchange is responsible for outlining the parameters of appeals processes, including timing, what entity will hear the appeals, and other factors
 - Exchange must provide notice of determinations, including right to appeal and instructions on how to file an appeal
 - Certain Exchange determinations are subject to appeal
- Maryland Law
 - Certain Commissioner determinations about navigator licenses, certifications, and authorizations are subject to *contested case procedures*
 - Certain Exchange producer authorization determinations are subject to *contested case procedures*

Determinations for which Exchange must establish appeal processes

- Individuals:
 - eligibility to enroll through Exchange
 - eligibility for APTC & CSR
 - exemption from individual responsibility
- Employer/employee:
 - eligibility to participate on SHOP
 - employer liability (failure to offer affordable/minimum essential coverage where employee is found eligible for APTC)
- Producers:
 - suspension, nonrenewal, or revocation of authorization
- QHPs:
 - decertification

(Note: MIA is responsible for appeals of navigator suspension, nonrenewal, revocation of license, certification or authorization)

Existing Appeals Processes

HEAU/MIA

- Carrier Determinations – contractual exclusion and termination of coverage
- Carrier Determinations – medical necessity
- Carrier Determinations – ineligibility determinations outside of the Exchange

DHMH

- Medicaid/MCHIP eligibility and coverage determinations

Existing procedures will continue – Exchange will coordinate efforts with MIA and DHMH, to ensure that all ACA requirements are satisfied and State policies are reflected, moving forward to develop appeals and notice procedures

Types of Appeals – Contested Case Hearing

Contested Case Hearing

- Full evidentiary hearing
- Right to contest basis for decision and present rebuttal evidence
- Right to contested case hearing is based on legal mandate, or nature of benefit

Board may conduct hearing OR delegate hearing authority

RECOMMENDATION: Delegate to OAH authority to conduct contested case hearings and issue final decisions

Types of Appeals – Informal Appeal

Informal Appeal

- Where full contested case hearing is not required
- Less formal process to review agency decision
- May be review of documents, written appeal
- Provides meaningful but expedient consideration; opportunity to consider additional information

Board may delegate review of ministerial decisions;

- non-ministerial decisions are subject to Board approval.

Proposed Appeals Processes

QHP Decert



Informal Hearing



Board Review

We recommend this process, but additional analysis is required.

Individual Eligibility;
Producer Authorization
suspensions, etc.



Internal Review



OAH

These are the contested case hearings we recommend delegating to OAH.

Employer Liability;
Employer/ee Eligibility



Internal Review



Informal Hearing

Based on current regulations, these will be handled inside the Exchange.

Next Steps

1. Identify which determinations will be contested cases
2. Develop plan for internal evaluation of appeals
3. Develop MOU with HEAU, defining HEAU role
4. Draft appeals regulations, working with DHMH, MIA, HEAU to align and integrate appeals processes
5. Evaluate OAH's role